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IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

No. 679

CLAYTON T. LLOYD,

Appellant,

v.

ALBERT BRICK, *et al.*,

Appellees.

ON APPEAL FROM THE COURT OF APPEALS OF MARYLAND

JURISDICTIONAL STATEMENT

CLAYTON T. LLOYD, *Per se*
4917 - 55th Place
Hyattsville, Maryland

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JURISDICTIONAL STATEMENT

Appellant appeals from the mandate of the Court of Appeals of Maryland entered May 26, 1965 and the judgment of the Circuit Court of Prince Georges County, Maryland entered February 5, 1965 and submits this statement to show that the Supreme Court of the United States has jurisdiction of the appeal and that substantial questions are presented.

OPINION BELOW

It is my understanding that neither the opinion of the Court of Appeals of Maryland nor of the Circuit Court of Prince Georges County, Maryland will be reported. Fur-

ther, it is my understanding that the Circuit Court for Prince Georges County has already transmitted to the Supreme Court of the United States a transcript of the trial held February 15, 1965 before Roscoe H. Parker, Judge.

JURISDICTION

Jurisdiction of this appeal is conferred on the Supreme Court by Article III, Section 2 of the Constitution of the United States relating to diversity of citizenship and Article VII guaranteeing the right to a trial of the facts by a jury and by Title 28, United States Code, Section 1257 (2).

The suit was filed by Appellees on February 6, 1962 before the Circuit Court for Prince Georges County, Maryland, Law 17,357, based on a contingent fee claimed to be due them for legal work performed. It is not clear to appellant what statute is involved, if any. It is noted that Appellees filed the suit under law rather than equity.

The judgment sought to be reviewed was made by the Circuit Court for Prince Georges County, Maryland on February 5, 1965. Motion for a new trial was denied and the judgment of that court became absolute on February 18, 1965.

Notice of appeal to the Court of Appeals of Maryland was filed March 2, 1965 with the Circuit Court for Prince Georges County.

Appellant filed a brief on May 10, 1965 with the Court of Appeals of Maryland. This brief, however was typewritten and did not meet the technical requirement of Rule 830, Maryland Rules of Procedure which requires 40 copies of a printed brief.

Appellees, without claiming prejudice to their case, filed a motion to dismiss on May 13, 1965 with Appellant filing a motion in opposition and requesting an extension of time to conform the brief with Rule 830, Maryland

Rules of Procedure. Appellant was not allowed to conform the brief with the said Rule 830 and the Court of Appeals of Maryland dismissed the appeal on May 25, 1965. Cf. *Swift v. State*, 224 Md. 300, 167 A.2d 762, to the effect that a motion to dismiss will be denied where it fails to allege or show prejudice.

If for no other reason, the Supreme Court should accept jurisdiction since there has been no review of the decision of the Circuit Court for Prince Georges County, Md.

QUESTIONS PRESENTED

(1) Did Appellant receive a trial of the facts by a jury as guaranteed by the Constitution?

(2) Did Trial Judge err in taking this case out of the hands of the jury as a "matter of law?"

(3) Where all the events leading up to a contingent fee agreement occurred in Washington, D.C., which jurisdiction should decide such agreement -- the courts of Washington, D.C. or of Maryland?

(4) Did the Court of Appeals of Maryland err in dismissing an appeal where Appellant in ignorance of the Rules of Procedure for that court filed only 1 copy of a typewritten brief rather than the 40 copies of a printed brief as required by said Rules and where Appellees did not aver prejudice to their case and in fact sustained none?

(5) Where Appellant, unhappy with the way Appellees were handling his case, revoked the contingent fee arrangement with Appellees and compromised and settled a pending law suit on his own initiative by the purchase of a 3% unsecured note (the maker of the note was adjudged a bankrupt approximately 2 months later); under these facts would Appellees be entitled to a money judgment for all or any part of the contingent fee?

(6) Was legal process or service properly made on a person not a resident agent, officer, director, or employee of a corporation?

(7) Did Trial Judge err in not dismissing this suit based on a failure to join an indispensable party, i.e., L & M Properties, Inc.?

(8) Would Appellees be entitled to a money judgment under any construction of law in the event collusion were present as Appellant has been led to believe?

STATUTES INVOLVED

Appellant does not believe that statute law is involved or material to a finding in this case.

STATEMENT

In the early part of 1960, Clayton T. Lloyd, the Appellant herein, retained the services of an attorney by the name of Albert Brick, one of the Appellees herein, to collect on a note given by Robert L. Ramey and the Ramey Kelly Corp. to L & M Properties, Inc. Unknown to Ramey the said Clayton Lloyd had verbally guaranteed payment of the note to L & M Properties, Inc.

Mr. Brick verbally agreed to handle the case on a contingent fee basis of one third of anything he collected. It was fully understood that if Mr. Brick collected nothing he would receive nothing.

At first Mr. Brick prosecuted the case with vigor but later no doubt finding out that there were several judgments and lawsuits pending against Ramey and which would undoubtedly be entitled to priority, Mr. Brick seemed to lose interest.

About this time an associate of Ramey told me a few things that would indicate some collusion between Ramey and Brick. Knowing Ramey, I was not too surprised; but when Brick refused to threaten Ramey with bankruptcy based on a transfer of assets while insolvent we had a

few words and Brick was advised that I did not need an attorney who would not follow instructions and that in the future I would handle the case myself. Mr. Brick was never actually fired in so many words.

Subsequently Mr. Ramey, needing money, called me to ask if I would get him another loan from L & M Properties, Inc. This I refused to do. After talking awhile Ramey stated that he had a note turned in to the corporation for stock which he would turn over to L & M Properties for $1,500.00 and dropping of the suit. L & M Properties, however, refused to advance another cent but they did agree that if I would put up the $1,500.00 they would release me from my contingent liability as a guarantor. This I subsequently did.

And the laughable part was that the maker of the note was in bankruptcy court in approximately 2 months with no hope for unsecured creditors.

And it was on these sets of facts that Appellees have sued for a full legal fee. Further on these same set of facts the Circuit Court for Prince Georges County have found for Appellees.

Pre-trial motions to dismiss based on jurisdiction and failure to join an indispensable party were denied, as well as motions for preliminary hearing, motion to submit certain aspects of this case to the Ethics Committee of the bar association and security for costs. Motion for jury trial was granted; however, Judge Parker to use his exact words took the matter out of the hands of the jury "as a matter of law."

THE QUESTIONS ARE SUBSTANTIAL

The issues involved in this appeal are substantial and are similar to those raised in *Thurston v. Travelers Insurance Co.*, 258 N.W. 66, 128 Neb. 141, and *Crumlish v. Shenandoah Valley R. Co.*, 22 S.E. 90, 40 W. Va. 627.

An agreement with an attorney for a contingent fee provides for conditional compensation of the attorney. *Byrd v. Clark*, 153 S.E. 737, 170 Ga. 669. Further a contingent fee arrangement is not to be regarded as being in the nature of, or analogous to, an unconditional promissory note, nor as an agreement payable unqualifiedly upon the happening of a certain contingency. *Galligan v. Bua*, 236 P. 1016, 77 Colo. 386.

Of far more importance is the constitutional guaranty of a trial by jury. What the constitution guaranteed the judge dismissed "as a matter of law."

It is equally important that the question of jurisdiction be answered.

The questions presented are so substantial as to require plenary consideration, with briefs on the merits and oral argument, for their resolution.

Respectfully submitted,

CLAYTON LLOYD, *Per se*
4917 - 55th Place
Hyattsville, Maryland

APPENDIX A

Appellant does not believe that there are any statutes relative or material to the handling of this case.

APPENDIX B

It is my understanding that the Circuit Court for Prince Georges County has previously submitted a transcript of the trial. Judgment was upon motion of Appellees without opinion. Similarly there was no written opinion by the Court of Appeals of Maryland.

END